IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 8880 of 2007
Date of Decision: 30.05.2007

Jitender Singh and others

.....Petitioners through
Mr. J.S.Chahal,
Advocate

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR. JUSTICE MAHESH GROVER

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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Vijender Jain, Chief Justice (Oral)

Learned counsel for the petitioners has contended that fine prescribed in letter dated 29.12.2006 by the State Transport Controller, Haryana is contrary to the scheme of Motor Vehicles Act, 1988 (for brevity ' the Act') because in the said letter, the amount prescribed is more than the one which has been prescribed under Section 41(11) of the Act. Thus, the respondents cannot charge any other amount except Rs. 100/-.

During the course of arguments, our attention has also been drawn towards Section 41 of the Act which reads as under:-

> ***41. Registration, how to be made-*** ***(1)*** *An application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and information and shall be made within such period as may be prescribed by the Central Government;*
>
> *Provided that where a motor vehicle is jointly owned by more persons than one, the application shall be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purposes of this Act.*
>
> *(2) An application referred to in sub-section (1) shall be accompanied by such fee as may be prescribed by the Central Government.*
>
> *(3) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in such form and containing such particulars and information and in such manner as may be prescribed by the Central Government.*
>
> *(4) In addition to the other particulars required to be included in the certificate of registration, it shall also specify the type of the motor vehicle, being a type as the Central Government may, having regard to the design construction and use of the motor vehicle, by notification in the Official Gazette, specicy.*
>
> *(5) The registering authority shall enter the particulars of the certificate referred to in sub-section (3) in a register to be maintained in such form and manner as may be prescribed by the Central Government.*
>
> *(6) The Registering Authority shall assign to the vehicle, for display thereon, a distinguishing mark (in*

this Act referred to as the registration mark) consisting of one of the groups of such of those letters and followed by such letters and figures as are allotted to the State by the Central Government from time to time by notification in the Official Gazette, and displayed and shown on the motor vehicle in such form and in such manner as may be prescribed by the Central Government.

(7) A certificate of registration issued under sub-section (3), whether before or after the commencement of this Act, in respect of a motor vehicle, other than a transport vehicle, shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable.

(8) An application by or on behalf of the owner of a motor vehicle, other than a transport vehicle, for the renewal of a certificate of registration shall be made within such period and in such form, containing such particulars and information as may be prescribed by the Central Government.

(9) An application referred to in sub-section (8) shall be accompanied by such fee as may be prescribed by the Central Government.

(10) Subject to the provisions of section 56, the registering authority may, on receipt of an application under sub-section (8), renew the certificate of registration for a period of five years and intimate the fact to the original registering authority, if it not the original registering authority.

(11) If the owner fails to make an application under sub-section (1), or, as the case may be, under sub section (8), within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such

amount not exceeding one hundred rupees as may be prescribed under sub section (13);

Provided that action under section 177 shall be taken against the owner where the owner fails to pay the said amount.

(12) Where the owner has paid the amount under sub-section (11), no action shall be taken against him under section 177.

(13) For the purposes of sub-section (11), the State Government may prescribe different amounts having regard to the period of delay on the part of the owner in making an application under sub section(1) or sub section(8).

(14) An application for the issue of a duplicate certificate of registration shall be made to the [last registering authority]in such form, containing such particulars and information along with such fee as may be prescribed by the Central Government."

A bare reading of Section 41 of the Act obviously exposes the fallacy in the arguments raised by learned counsel for the petitioner.

Sub Section 13 of Section 41 of the Act empowers the State Government to prescribe different amounts having regard to the period of delay on the part of the owner in making an application under Sub Section (1) or Sub Section (8).

From the harmonious construction of Section 41 of the Act, it is discernible that what is required to be prescribed is fine based on the period of delay. Scope of sub section 11 of the Act has been further expanded under Sub Sections 13 and 14 of the Act which empower the State Government to prescribe different amounts having regard to the period of delay on the part of the owner in making an application under Sub Section (1) or Sub Section (8) of the Act.

This argument of learned counsel, therefore, does not merit acceptance and is rejected.

Another contention which has been raised before us by learned counsel for the petitioner is that power for prescribing different amounts is with the State Government and not with the State Transport Authority.

There is no force in the submissions in the arguments of learned counsel for the petitioners because the State Transport Authority exercise its power under the State Government.

No other point has been argued.

Dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

(MAHESH GROVER)
JUDGE

30.05.2007
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